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**From:** Blanco-Gonzalez, Joel [Blanco-Gonzalez.Joel@epa.gov]  
**Sent:** 8/1/2014 2:06:00 PM  
**To:** Duchovnay, Andrew [Duchovnay.Andrew@epa.gov]; Zolandz, Mark [Zolandz.Mark@epa.gov]  
**Subject:** FW: Draft Permit Comments - General Discharge Permit for Animal Feeding Operations (MDG01) - V2  
**Attachments:** 9 practices locations in NMP, CP and CNMP.docx

Below, please find the following for your review and comments.

If you have any questions concerning this matter, please let me know.

Respectfully,

Joel

**From:** Gary Kelman -MDE- [mailto:gary.kelman@maryland.gov]  
**Sent:** Friday, August 01, 2014 8:08 AM  
**To:** Blanco-Gonzalez, Joel  
**Cc:** Hussain Alhija -MDE-; Trulear, Brian; Cruz, Francisco; McGuigan, David  
**Subject:** Re: Draft Permit Comments - General Discharge Permit for Animal Feeding Operations (MDG01) - V2

Joel:

Thank you for the comments on our draft AFO general discharge permit. Two points:

1. We submitted a formal request for review and approval of the draft permit in a letter to Dave McGuigan dated June 17, 2014. Are we getting a formal response?
2. We are on a tight time schedule in our process to re-issue this permit and would appreciate your formal approval of the draft so that we can make progress.

We propose the following to address your comments (please refer to the redline version of the draft permit):

Comment # 1: "The draft permit shall clearly state, in a conspicuous location, that the NMP is incorporated into the permit."

Response to comment # 1: We believe that this was already addressed on Page 4 (Part I B 5), "The NMP and Conservation Plan are essential parts of this permit, and failure to implement those plans in accordance with the approved specifications and schedules in those plans is a violation of this permit." However, in addition to this paragraph, we will add a paragraph 5 to Part III B to read as follows, "The required plans and any subsequent modifications to the required plans, once approved by the Department, are incorporated into this General Discharge Permit."

Comment # 2: "Every NPDES permit issued to a CAFO must require that the CAFO implement the terms of a site-specific NMP approved by the Director pursuant to 40 CFR Part 122.42(e)(5).

Response to comment #2: Again, we believe that this was already addressed on Page 4 (Part I B 5) of the permit as quoted in #1. Also on Page 16 (Part IV B) the draft permit states, "The permittee's

NMP and Conservation Plan shall meet the following standards:" followed by a list of the nine minimum standards. The combination of these two requirements fulfill your comment.

Comment # 3: "The draft permit as written defines the following permit components: CNMP, NMP, CP. These permit components, collectively, may address the NMP requirements; however; MDE shall justify, clarify, and document where all these prohibitions have been addressed, and that these permit components are available for public review and subject to an approval process."

Response to Comment # 3: The handout that we provided you at the meeting (attached) clearly illustrates where each of the nine minimum standards are addressed in these plans. In addition, the Maryland Department of Agriculture will assure that the NMP/CP combination will address the nine minimum standards. As far as providing for a "public review" and "approval process" for the plans, please refer to Page 10 (Part III B 3) of the draft permit.

Comment # 4: "Part III B 4 Registration Process ... Add "required plan(s) and information".

Response to comment #4: Done on Page 10.

Comment #5: Part IV A 4 "Add the following to this prohibition "to the extent allowed by applicable regulations".

Response to comment #5: Done on Page 14.

Comment #6: "Part IV F Change in Permitted Operations - The differences and restrictions between land ... and no-land ... are not listed in the draft permit. Define these concepts."

Response to comment #6: We added i and ii to Section F(1)(d) on Page 19: i. The permittee for a no-land operation shall not apply manure, litter, or process wastewater to fields under the control of the operator. Manure, litter, or process wastewater generated by the AFO shall be exported to an operation that is not under the control of the operator of the permitted AFO; ii. The permittee for a land operation may apply all or a portion of the manure, litter, or process wastewater to fields under the control of the operator in accordance with a current NMP.

Comment #7: "Part VII B Right of Entry - EPA reserves its right for inspection and entry pursuant to 40 CFR Part 122.41 (i). Clarify this fact in the draft permit."

Response to comment #7: We modified this to read, "The permittee shall permit the United States Environmental Protection Agency (EPA), the Secretary of the Department or their authorized representatives, including researchers authorized by the Department and approved by MDA, upon the presentation of credentials: ... "

Comment # 8: "Part VII K. Total Maximum Daily Loads - The draft permit as written does not include requirements necessary to implement the Chesapeake Bay Total Maximum Daily Load and the Watershed Implementation Plan (WIP)."

Response to comment #8: We have added language on Page 27 to satisfy this comment below the existing paragraph to read as follows:

"1. AFOs shall implement those BMPs provided they are feasible considering farm-specific conditions. If the permittee determines that the BMPs are not feasible, the permittee shall submit to the Department for review and approval the rationale for the decision in its required plans. If the permittee is unable to implement appropriate BMPs immediately due to either technical or financial consideration, the permittee shall propose a schedule for implementation to the Department for its review and approval. The required plans shall be used to identify the BMPs being implemented and/or the BMPs schedule for implementation.

2. The Department reserves the right to require additional BMPs to minimize phosphorus and nitrogen transport to waters of the State if required by changes in the watershed implementation plan (WIP)."

Again, we are on a tight time schedule to re-issue this permit and request a formal approval of the draft permit.

If you have any questions, please contact me.

Thanks, Gary

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On Fri, Jul 25, 2014 at 5:00 PM, Blanco-Gonzalez, Joel <[Blanco-Gonzalez.Joel@epa.gov](mailto:Blanco-Gonzalez.Joel@epa.gov)> wrote:

Gary,

Based on our review of the preliminary draft General Discharge Permit for Animal Feeding Operations (MDG01) received from your office on June 17, 2014, and as per our June 27, 2014 meeting, we offer the following comments. We consider these as informal comments and will provide a formal review in accordance with 40 CFR § 123.44 and our MOA when MDE submits the official draft/proposed permit. As you recommended, we offer the following comments related to the Chesapeake Bay TMDL (the Bay) requirements.

**Part VII.K. Total Maximum Daily Loads** - The draft permit as written does not include requirements necessary to implement the Chesapeake Bay Total Maximum Daily Load (the Bay TMDL) and the Watershed Implementation Plan (WIP). Maryland developed a WIP in which, among others, several best management

practices (BMPs) have been identified as necessary to meet Agricultural Waste Load and Load Allocations listed in the Bay TMDL.

Animal Feeding Operations shall implement those BMPs provided they are feasible considering farm-specific conditions. If the permittee determines that the BMPs are not feasible, the permittee shall provide in its NMP the rationale for the decision to MDE for its review and approval. If the permittee is unable to implement appropriate BMPs immediately due to either technical or financial consideration, the permittee shall propose a schedule for implementation to the MDE for its review and approval. The NMP shall be used to identify the BMPs being implemented and/or the BMPs schedule for implementation.

EPA recommends that the following analysis be followed.

- [Insert an explanation of the WIP's BMPs planned, designed, constructed, and maintained at this facility as to meet Agricultural Waste Load and Load Allocations].
- MDE should determine that sufficient BMPs are in place to meet the Bay TMDL requirements.
- MDE should require continued implementation of all BMPs in place and required by this permit.
- MDE should explain that it may require additional BMPs to minimize phosphorus and nitrogen transport to waters of the US (or more stringent).

Please address our comments and recommendations, and provide us with any changes to the draft permit, Fact Sheet, Notice of Intent, Instructions and/or any applicable document.

If you have any questions concerning this matter, please let me know.

Thanks

Joel Blanco-González

NPDES Permits Branch (3WP41)

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